



February 13, 2015

SENATE BILL No. 208

DIGEST OF SB 208 (Updated February 11, 2015 2:35 pm - DI 104)

Citations Affected: IC 35-31.5; IC 35-46.

Synopsis: Oocyte cryopreservation. Amends the definition of "qualified third party" to "qualified egg bank". Specifies qualifications for a physician overseeing medical services related to oocyte cryopreservation. Specifies requirements that must be met by a fertility clinic or an entity in order to be considered a qualified egg bank. Exempts from the criminal penalty of unlawful transfer of a human organism the payment to or receipt by a qualified egg bank of an amount for: (1) the retrieval of a human ovum; (2) the cryopreservation of a human ovum; (3) the transportation of a human ovum; or (4) other aspects of specified treatments or procedures to enhance human reproductivity capability.

Effective: July 1, 2015.

Miller Patricia, Becker

January 6, 2015, read first time and referred to Committee on Health & Provider Services.
February 12, 2015, amended, reported favorably — Do Pass.

SB 208—LS 6605/DI 107



February 13, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 208

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-31.5-2-235.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: **Sec. 235.4. "Physician", for purposes**
4 **of IC 35-46-5-3, has the meaning set forth in IC 35-46-5-3(a).**
5 SECTION 2. IC 35-31.5-2-264.8 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2015]: **Sec. 264.8. "Qualified egg bank", for**
8 **purposes of IC 35-46-5-3, has the meaning set forth in**
9 **IC 35-46-5-3(b).**
10 SECTION 3. IC 35-46-5-3, AS AMENDED BY P.L.158-2013,
11 SECTION 572, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) **As used in this section,**
13 **"physician" means an individual who:**
14 **(1) is licensed to practice medicine in:**
15 **(A) Indiana under IC 25-22.5; or**
16 **(B) the state in the United States in which the individual is**

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- performing medical services;
- (2) is board certified in obstetrics and gynecology; and
- (3) oversees medical services related to oocyte cryopreservation.

(a) (b) As used in this section, "qualified third party" egg bank" means:

- (1) a fertility clinic or similar medical facility that is located in the United States and that:

- (A) is accredited by an entity approved by:

- (i) the medical licensing board, if the clinic or facility is in Indiana; or

- (ii) the authorizing state agency or licensing board in the state in which the clinic or facility is located;

- (B) is registered under 21 CFR 1271 with the United States Food and Drug Administration; and

- (C) is directly or indirectly owned by, employs, a contracts with, or is affiliated with at least one (1) physician licensed under IC 25-22.5 who performs medical services related to oocyte cryopreservation at the clinic or facility;

- or
 - (A) is board certified in obstetrics and gynecology; and
 - (B) performs oocyte cryopreservation at the facility.

- (2) an entity whose:

- (A) primary business purpose includes the facilitation of:

- (i) in vitro fertilization;

- (ii) gamete intrafallopian transfer; or

- (iii) zygote intrafallopian transfer;

- using cryopreserved oocytes; and

- (B) majority outstanding equity interests are directly or indirectly owned by at least one (1) physician authorized to perform services at a clinic or facility described in subdivision (1).

(b) (c) Except as provided in subsection (d), a person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Level 5 felony.

(c) (d) This section Subsection (c) does not apply to the following:

- (1) The transfer payment to or receipt by either a woman donor of an ovum or a qualified third party of an amount for:

- (A) earnings lost due to absence from employment;

- (B) travel expenses;

- (C) hospital expenses;



- 1 (D) medical expenses; and
 2 (E) recovery time in an amount not to exceed four thousand
 3 dollars (\$4,000);
 4 concerning a treatment or procedure, **including oocyte**
 5 **cryopreservation**, to enhance human reproductive capability
 6 through in vitro fertilization, gamete intrafallopian transfer, or
 7 zygote intrafallopian transfer.
 8 **(2) The payment to or receipt by a qualified egg bank of an**
 9 **amount for:**
 10 **(A) the retrieval of a human ovum;**
 11 **(B) the cryopreservation of a human ovum;**
 12 **(C) the transportation of a human ovum; or**
 13 **(D) any other aspect of performing or facilitating services**
 14 **related to a treatment or procedure to enhance human**
 15 **reproductive capability through:**
 16 **(i) in vitro fertilization;**
 17 **(ii) gamete intrafallopian transfer; or**
 18 **(iii) zygote intrafallopian transfer.**
 19 ~~(2)~~ **(3) The following types of stem cell research:**
 20 **(A) Adult stem cell.**
 21 **(B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as**
 22 **the biological parent has given written consent for the use of**
 23 **the fetal stem cells.**
 24 ~~(d)~~ **(e) Any person who recklessly, knowingly, or intentionally uses**
 25 **a human embryo created with an ovum provided to a qualified ~~third~~**
 26 **party egg bank under this section for purposes of embryonic stem cell**
 27 **research commits unlawful use of an embryo, a Level 5 felony.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 208, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, delete "third party"," and insert "**egg bank**",."

Page 1, delete lines 10 through 16, begin a new paragraph and insert:

"SECTION 3. IC 35-46-5-3, AS AMENDED BY P.L.158-2013, SECTION 572, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a) As used in this section, "physician" means an individual who:**

(1) is licensed to practice medicine in:

(A) Indiana under IC 25-22.5; or

(B) the state in the United States in which the individual is performing medical services;

(2) is board certified in obstetrics and gynecology; and

(3) oversees medical services related to oocyte cryopreservation.

(a) (b) As used in this section, "qualified ~~third party~~ egg bank" means:

(1) a fertility clinic or similar medical facility that is located in the United States and that:

(1) (A) is accredited by an entity approved by:

(i) the medical licensing board, if the clinic or facility is in Indiana; or

(ii) the authorizing state agency or licensing board in the state in which the clinic or facility is located;

(2) (B) is registered under 21 CFR 1271 with the United States Food and Drug Administration; and

(3) (C) is directly or indirectly owned by, employs, a contracts with, or is affiliated with at least one (1) physician licensed under IC 25-22.5 who performs medical services related to oocyte cryopreservation at the clinic or facility; or

(A) is board certified in obstetrics and gynecology; and

(B) performs oocyte cryopreservation at the facility.

(2) an entity whose:

(A) primary business purpose includes the facilitation of:

(i) in vitro fertilization;

(ii) gamete intrafallopian transfer; or



(iii) zygote intrafallopian transfer;
 using cryopreserved oocytes; and
 (B) majority outstanding equity interests are directly or indirectly owned by at least one (1) physician authorized to perform services at a clinic or facility described in subdivision (1).

~~(b)~~ (c) Except as provided in subsection (d), a person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Level 5 felony.

~~(c)~~ (d) This section Subsection (c) does not apply to the following:

(1) The transfer payment to or receipt by either a woman donor of an ovum or a qualified third party of an amount for:

- (A) earnings lost due to absence from employment;
- (B) travel expenses;
- (C) hospital expenses;
- (D) medical expenses; and
- (E) recovery time in an amount not to exceed four thousand dollars (\$4,000);

concerning a treatment or procedure, **including oocyte cryopreservation**, to enhance human reproductive capability through in vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.

(2) The payment to or receipt by a qualified egg bank of an amount for:

- (A) the retrieval of a human ovum;
- (B) the cryopreservation of a human ovum;
- (C) the transportation of a human ovum; or
- (D) any other aspect of performing or facilitating services related to a treatment or procedure to enhance human reproductive capability through:
 - (i) in vitro fertilization;
 - (ii) gamete intrafallopian transfer; or
 - (iii) zygote intrafallopian transfer.

~~(2)~~ (3) The following types of stem cell research:

- (A) Adult stem cell.
- (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as the biological parent has given written consent for the use of the fetal stem cells.

~~(d)~~ (e) Any person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified ~~third party~~ **egg bank** under this section for purposes of embryonic stem cell



research commits unlawful use of an embryo, a Level 5 felony."

Delete pages 2 through 3.

and when so amended that said bill do pass.

(Reference is to SB 208 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 7, Nays 2.

